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March 13, 2008

By Facsimile Transmission:
212-805-0417

Honorable Laura Taylor Swain
United States District Judge
United States Courthouse
500 Pearl Street
New York, New York

MEMO ENDORSED

Re: *Ognibene v. Schwarz*
08 CV 1335 (LTS)

Dear Judge Swain:


On behalf of the defendants in the above-referenced action, I am writing to request a sixty-day enlargement of time within which to serve and file defendants' response to the Amended Complaint. Defendants intend to move to dismiss the amended complaint, a motion that, owing to the twenty counts asserted in the 318-paragraph, 108-page pleading, will be a substantial undertaking. I conveyed defendants' request for the enlargement to plaintiffs' counsel, Joe La Rue and Charles Capetanakis, by e-mail, and they oppose the request, indicating that they would consent to no more than a "minor extension" as a matter of routine professional courtesy.

Should the Court grant defendants' request, defendants respectfully propose, in lieu of issuing a Revised Scheduling Order pursuant to ¶ 1.E of the Court's Individual Practices, that the Court stay discovery through the resolution of the potentially dispositive motion. While defendants appreciate the Court's need to move its docket forward, the proposed stay would have the benefit of avoiding needless and expensive discovery as to legally untenable claims. Even if defendants' motion achieved the dismissal of only some of the twenty claims asserted by plaintiffs, the resulting discovery would likely be streamlined in a manner that would justify the

stay. See, e.g., *Independent Order of Foresters v. Donald, Lustin & Jenrette, Inc.*, 157 F.3d 933, 936, 944 (2d Cir. 1998) (affirming district court's grant of two consecutive three-month stays of discovery pending disposition of motion to dismiss).

Thank you for your consideration of this request.

Very truly yours,

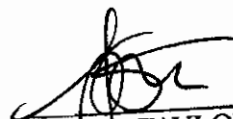

Jonathan Pines
Assistant Corporation Counsel

Copies (by e-mail) to:

Joe La Rue
Charles Capetanakis
Counsel for Plaintiffs

The requested extension of time to respond to the amended complaint is granted. The initial pre-trial conference is adjourned from April 11, 2008 to June 13, 2008, at 11:00AM and the related deadlines are modified accordingly. The issue of discovery during pendency of the motion should be addressed in the parties' joint preliminary pretrial statement. The parties' attention is directed to Rule 2B of the Individual Practices Rules of the undersigned.

SO ORDERED.

 3/13/2008
LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE